

12 **LOCAL SELF GOVERNMENT (PANCHAYATS AND URBAN LOCAL BODIES)** The philosophy of development that emerged in India after independence, emphasized the need for involvement of the members of national community in the web of relationship and institutional framework, to enable them to participate in the process of decision making, implementation and channelling the process of development. The operation of government and politics in the past century has opened new channels for mobility of the individual in society. Pt. Jawahar Lal Nehru describing the importance of local self-government in India's context said, "Democracy is not merely parliament at the top or in the states but something that excites every person and something which trains everyone to take his proper place and indeed any place in the country, if need arises. I have said and I mean it, that all this Panchayati Raj, whatever things we are doing, are ultimately meant to train up every individual in India to be a potential prime-minister of India. Local self-government should be looked upon as force mobilization of both political and socio-economic development. The role and importance of Panchayati Raj grows much, since almost 80% of India's population lives in villages and it is this part of population which always draws attention of planners and policy makers for the development of Indian Society. Local self-government is a body representing the local inhabitants, possessing a large degree of autonomy. Local self-government in the modern sense is essentially a British creation. However, Panchayat in India basically is a very ancient institution, which lost its shape because of centuries of ruthless exploitation of village republics by foreign invaders. **Historical Legacy:** Independent India inherited, a well-articulated system of central administration; but nothing much to name local self-government. Under British Raj, scattered and unintentional efforts were made towards devolution of powers. Some attempts, in this direction were, Lord Rippon's 1882 resolution to associate local people with District Boards, 1917 Democratic Declaration, 1919 Montague Chelmsford reforms, 1928 Nehru Report, 1931 Karachi session of Congress, which discussed the need of Fundamental Rights for natives; and formation of popular ministries in 1937. During the independence movement, the Panchayats of ancient times were eulogized as democratic "Little Republics". Gandhiji was very particular about the : the Wonderland Himachal Pradesh 962 revival of these republics. To give representation to Gandhian ideology, Article 40 in the Directive Principles of State Policy, instructed the states to take steps to organize village panchayats and endow them with certain powers necessary to function as units of self government. Local-self government at higher levels, received little or insufficient attention barring the introduction of Janapadas in the central provinces and Berar (Madhya Pradesh) in 1948. Local participation in development was envisaged through the 'Community Development' (CD) on 2nd Oct. 1952. But C.D. remained an utopian idea in the absence of any real efforts towards devolution. To support the ideology of C.D., National Extension Scheme (NES) was introduced on 2nd Oct., 1953, but neither of the two could generate required enthusiasm amongst villagers. The Planning Commission in the second five year plan, recommended review of these programmes. Then a study team under the Chairmanship of 'Balwant Rai Mehta' was appointed in 1956. It recommended the replacement of old district boards by of three tier system at the district, block and village level, with an organic link among them. "Democratic Decentralisation" was the thrust of B.R. Mehta Committee's recommendation. Panchayats and local self-government have been included in the 'state list'. The recommendation of B.R. Mehta Team came into effect on 1* April 1958. This was earlier approved by 'National Development Council'. Panchayati Raj Institution was inaugurated by Pt. Jawahar Lal Nehru on 2nd Oct., 1959 in Rajasthan and Andhra Pradesh followed it. The whole edifice of Panchayati Raj was to be built on the foundation of the 'Gram Sabha', comprising all the adult members of the village, required to participate at least pour a year. Like many other states, Himachal was also provided with three tier system and Gram Sabha with statutory status. The functions allotted to the Gram Sabh a are: consideration of the annual statement of accounts, audit reports of the Gram Panchayat, administration report of the Gram Panchayat, work programme for the ensuing year, taxation proposals and any other specific development schemes. At the moment, when other states of Indian Union were thinking in terms of introducing local self government at village level the people of Himachal were struggling for the restoration of popular government at the state level. From 1956 to 1963 Himachal had the status of Union Territory without popular support and participation. It was only in 1963, when popular assembly was restored within the status of Union Territory (Territorial Council).

But Panchayati Raj in Himachal Pradesh had existed since the regime of the first popular ministry in 1953. Some 600 Gram Panchayats and an equal number of Nayaya Panchayats were formed later on. After the integration of Punjab Hill areas, the number of Panchayats was raised to 1900. Gram Sabha in Himachal Pradesh hardly met to discuss any issue. The possible reason for this state of affairs are unsuitable timings, apathy of Sarpanch inadequacy of powers, lack of consciousness, poor literacy rate, caste distinction, domination

963 the Wonderland Himachal Pradesh of male chauvinists and lack of proper publicity of Panchayat programmes. The situation is more or less the same in other states too. A genuine step towards the reintroduction of Panchayati Raj in Himachal Pradesh was taken in 1968, when hilly areas of Punjab were handed over to Himachal in 1966 and it became almost certain that increase in area and population plus administrative responsibility will help gain long cherished demand for 'statehood'.

Himachal Pradesh Panchayati Raj Act, 1968: Panchayati Raj was given new deal in the shape of a unified Himachal Pradesh Panchayati Raj Act 1968, which came into force on 15th November 1970. Under this scheme, Gram Panchayats at the village level, Panchayat Samities at the block level and Zila Parishad at the district level were established. After the general election to Gram Panchayats in 1972-73, 2038 Gram Panchayat and an equal number of Nayaya Panchayats were set up. According to 1968 Panchayati Raj resolution, the entire Pradesh will have Gram Panchayats for one or more villages and Panchayat Samities at block Level as corporate bodies, but Zila Parishad will function as an advisory body because the work executed by Zila Parishad such as construction of roads and their maintenance. This work will now be done by government departments in consultation with Zila Parishad. This act also provides separate Nayaya Panchayat. Number of Nayaya Panchayats with coextensive territorial Jurisdiction of the concerned Gram Panchayats will be equal to Gram Panchayat. A Nayaya Panchayat shall comprise five to seven Panchas including the Sarpanch and Naib Sarpanch and these Nayayas panchas will be elected by the members of Gram Panchayat from amongst themselves. Nayaya Panchayats, are independent units of the control of Gram Panchayats and vested with ample powers to deal with delinquents and impose adequate penalties. The Nayaya Panchayat have been fully replaced by Gram Panchayats now. In 1977 when Janta Government came into power at the centre, on its own commitment to decentralization, a 13 member committee headed by 'Ashok Mehta' was set up to study the decay of Panchayati Raj (PR) and to make suggestions for their improvement. Following suggestions were made by Ashok Mehta Committee: (a) Committee does not lay down any rigid pattern for the whole country and make efforts at built-in-flexibility. (b) Placed the idea of 'Mandal Panchayats' for a group of villages. (c) Members of Zila Parishad should be directly elected for a term of four years. (d) Committee recognizes the utility of Political parties in Panchayati Raj institutions and wants them to be allowed to participate in elections and (e) Great responsibility (development) should be shouldered at the district and Mandal levels. Since the recommendations of Ashok Mehta Committee report, Panchayats have been politicized. In most of the states including Himachal, Panchayat elections have become real test of the credibility and popularity of political parties. Politics of National and state level elections has started showing the Wonderland Himachal Pradesh its colour and crap on grass root levels too. Panchayats (district wise) in Himachal Pradesh (As on 31st January 2014 A.D.) No. of Gram Panchayats S.No. District No. of Block Samities

S.No.	District	No. of Gram Panchayats	No. of Block Samities
1	Bilaspur	151	03
2	Chamba	283	07
3	Hamirpur	229	06
4	Kangra	760	14
5	Kinnaur	65	03
6	Kullu	204	05
7	Lahaul-Spiti	41	02
8	Mandi	473	10
9	Shimla	228	06
10	Sirmaur	211	05
11	Solan	363	09
12	Una	235	05
Total		3243	75

Source: Directorate of Panchayats Himachal Pradesh 2013-14

964 At present there are 12 Zila Parishad, 75 Block Samities, one for each block, 3243 village Panchayats for 17,882 inhabited villages of the Pradesh. Under various five year plans lakhs of Rupees have been approved for various Panchayat Programmes. Following schemes have been undertaken under this head:

1. Loans for creation of Remunerative Assets, such as raising of orchards, construction of stalls, shops and residential quarters etc. so that Panchayats could yield perennial income from these assets.
2. Matching Incentives Grant to Panchayati Raj bodies for stepping up of their tax efforts. This scheme was introduced during Fourth Five Year Plan on the basis of the recommendations of the working group on community development and Panchayati Raj government, according to which, an amount equal to the collection of house tax by a Panchayat is given as 'grant in aid'.
3. Construction of Panchayat Ghars- Under this scheme it is planned to construct Panchayat Ghars, to accommodate local bodies at proper place to work in a smooth and constructive way and also utilize these facilities for publicity of various schemes and programmes.
4. Assistance to panchayat Library.
5. Panchayat Prize Competition Schemes- In order to create working atmosphere and competitive culture, this schemes has been introduced. Cash prizes are awarded by the government to Panchayats, which on the basis of

965 the Wonderland Himachal Pradesh their performance are adjudged first, second and third in the manner given below: (i) District level Panchayat competition, one cash prize of Rs. 10,000/- to one Panchayat adjudged the best Panchayat in the district every year for 12 districts. (ii) State level Panchayat competition I, II, III, prizes are awarded. 6. Construction of Building of 'Panchayati Raj Training Institute Mashobra and Baijnath', to impart training with regard to proper application of the provision of 'Himachal Pradesh Panchayati Raj Act' and rules made there under the functionaries of the Panchayati Raj bodies, their employees and the department staff directly connected with the supervision of the Panchayats. 7. Construction of well-furnished Samiti and Zila Parishad Bhawan. 8. Grant to Panchayats for the discharge of Municipal functions: There are some Panchayats in which some areas have almost taken the shape of small towns and in such a town, amenities like 'street lights', 'public water tap', toilets and other sanitation facilities have become essential. To cater the financial need of such Panchayats grant system has been introduced.

Panchayati Raj in Practice: With the enactment of 'Panchayati Raj Act 1968', constitutional obligation was completed by government, to set up local self government at village level. It was conceived of as an Institution for development, with decentralized administration and voluntary popular participation. Himachal Pradesh where ninety per cent of the population is directly dependent on villages, was thought to be a real playground for grass root democracy. Panchayats here were considered as a means to bring social and economic changes, in hitherto neglected and backward masses of the area. But past experience shows, that these lofty declarations such as decentralization, devaluation of power, power to the people, Gram Rajya, setting up of Cooperative Movement and Social Justice have remained a far cry, because of the following reasons: □ Domination of Panchayats by rural elites and richest groups. Panchayat bodies have become an arena for the play of power politics. Various tricky methods, such as bribery of both officials and voters, pressure, terror, caste loyalties and false promises are used blatantly to capture the local bodies. Member of Panchayat bodies are bribed at the time of election by the Political Parties to declare their loyalties in favour of such Political Party as influence the electorates political behaviour. Panchayats perform their simple duties most inadequately. The growth in the production of wheat and fruit cannot be attributed to Panchayati Raj, but to various individual or joint efforts out of the purview of the Wonderland Himachal Pradesh 966 Panchayats. Himachal is one amongst the few states of Indian Union to implement the recommendations of Ashok Mehta Committee 1977 on Panchayati Raj. Due to the creation of Panchayati Raj Minister portfolio in the state council of minister, it is expected that, panchayats in Himachal Pradesh will play constructive and goal-oriented role towards bringing changes in the social, economic and political structure of an otherwise backward society. From 1968 to 1994, a good number of amendments have been made in the Panchayati Raj Act. The latest is Himachal Pradesh Panchayati Raj Act 1994. In 2006 Panchayat election, for the first time state election commission fixed different colour for different category of posts, such as white ballot paper for ward member, pink for panchayat pradhan, green for BDC member and yellow for zila parishad. Earlier it was green for ward member, brown for panchayat pradhan, pink for BDC and white for zila parishad. Himachal Pradesh Panchayati Raj Act, 1994.) In 1994 Himachal Pradesh Government Amended the panchayati raj act and defined various parts of the panchayati raj institution. GRAM SABHA The Government may, by notification, declare any village or group of contiguous villages with a population of not less than one thousand and not more than five thousand to constitute one or more Sabha areas for the purposes of this act and also specify its headquarter: Provided that in a Scheduled area the Government may by order declare any village or group of contiguous villages with a population of less than one thousand to constitute a Sabha area: Provided further that the Government may, after having due regard of the geographical location, lack of means of transport and communication and administrative convenience, declare an area comprising a village or group of contiguous villages having a population either less than one thousand or more than five thousand to constitute a Sabha area. The Government may, at the request of the Gram Sabha concerned or otherwise, and after previous publication of a proposal by a notification, at any time (a) increase any Sabha area by including within such Sabha area any village or group of villages; or (b) diminish any Sabha area by excluding from such Sabha area any village or group of villages; or (c) alter the headquarters of any Sabha area; or (d) alter the name of any Sabha area; or

(e) declare that any area shall cease to be a Sabha area: vii- When on account of the reason that the Sabha area is, during the term of the Gram Panchayat, increased or diminished or ceased under sub-section (2), the increase or diminution or cessation of the Sabha area shall not affect the term of the office bearers of Gram Panchayat, till the expiration of the

967 the Wonderland Himachal Pradesh duration of the Gram Panchayat specified in sub-section (1) of section 120 or its dissolution under section 140 of this Act. (3) If the whole of the Sabha area is included in a municipality, the Sabha area shall cease to exist and its assets and liabilities shall in the manner pre- scribed be disposed of. Every Sabha shall hold four general meetings in each year and every meet- ing shall held on the first Sunday of January, April, July and on second Octo- ber. It shall be the responsibility of the Pradhan to convene such meetings Functions of Gram Sabha-the Gram Sabha shall perform the follow- ing functions, namely:- (a) mobilise voluntary labour and contribution in kind and cash for the Community Welfare Programmes; (b) identification of beneficiaries for the implementation of developmen- tal schemes pertaining to the village; (c) rendering assistance in the implementation of developmental schemes pertaining to the village; (d) approve plans, programmes and budget, prepared by the Gram Panchayat, for economic development and social justice; (e) authorise, after being satisfied, issuance of utilization certificate of funds spent on the implementation of the plans, projects and programmes of the Gram Panchayat; (f) promotion of unity and harmony among all sections of society in the Sabha area; (g) seek clarifications from the Pradhan, Up-Pradhan and members of the Gram Panchayat about any particular activity, scheme, income and ex- penditure; and (h) such other maters as may be prescribed. The Gram Sabha shall consider the following matters, and make recom- mendations and suggestions to the Gram Panchayat, namely:- (a) the annual statement of accounts of the Gram Panchayat, the report of the administration of the preceding financial year and the last audit note and replies, if any, made thereto; (b) the report in respect of development programmes of the Gram Panchayat relating to the preceding year and development programmes pro- posed to be undertaken during the current year; (c) the promotion of unity and harmony among all sections of society in the village; (d) the programme of adult education within the village; (e) any other matter which the Panchayat Samiti, Zila Parishad, the Deputy Commissioner or any other officer authorised in this behalf may require to be placed before the Gram Sabha; and (f) such other matters as may be prescribed. the Wonderland Himachal Pradesh 968 The Gram Panchayat shall give due consideration to the recommenda- tions and suggestions of the Gram Sabha. The Gram Sabha may also form one or more vigilance committee(s) con- sisting of not less than five persons, who are not members of the Gram Panchayat, to supervise the Gram Panchayat works, schemes and other ac- tivities and to put up reports concerning them in its meeting and shall also send a copy of the said report to such an authority as may be prescribed for this purpose: The village level functionaries of the Agriculture, Animal Husbandry, Pri- mary Education, Forest, Health and Family Welfare, Horticulture, Irrigation and Public health, Revenue and Welfare Departments shall attend the meet- ings of the Gram Sabha in whose jurisdiction they are posted, and if such village level functionaries fail to attend the meetings, the Gram Sabha shall report the matter to their controlling officer through the Gram Panchayat, who shall take disciplinary action against such functionaries within one month from the date of receipt of the report and shall intimate the action taken on such report to the Gram Sabha through the Gram Panchayat. GRAM PANCHAYATS There shall be a Gram Panchayat for a Gram Sabha and every Gram Sabha shall, in the prescribed manner, elect from amongst its members [Pradhan and Up-Pradhan] of the Sabha who shall also be called the Pradhan and Up-Pradhan of the Gram Panchayat and shall also elect from amongst its members an Executive Committee called the Gram Panchayat consisting of such number of persons not being less than seven and more than fifteen, including Pradhan and Up-Pradhan, as the Government may by notification determine: Provided that the number of members excluding Pradhan and Up- Pradhan]to be assigned to each Gram Sabha, shall be determined on the fol- lowing scale:- (a) with a population not exceeding 1750 .. five .. seven nine (b) with a population exceeding 1750 but not exceeding 2750 (c) with a population exceeding 2750 but not exceeding 3750 (d) with a population exceeding 3750 but not exceeding 4750 .. eleven (e) with a population exceeding 4750 ..thirteen Provided further that the number of members of a Gram Panchayat, ex- cluding Pradhan and Up-Pradhan, shall be determined in such a manner that the ratio between the population of the Gram Sabha and the number of seats of members in such a Panchayat to be filled by election shall, so far as practi- cable, be the same throughout the Sabha area: Provided further that the member of

the Panchayat Samiti, representing a part or whole of the Gram Sabha area shall also be the member of the concerned Gram Panchayat(s) and shall have the right to vote.

969 the Wonderland Himachal Pradesh (2) Seats shall be reserved in a Gram Panchayat- (a) for the Scheduled Castes, and (b) for the Scheduled Tribes, and the number of seats so reserved shall bear, as nearly as may be, same proportion to the total number of seats in the Gram Panchayat as the population of the Scheduled Castes or the Scheduled Tribes in the Sabha area bears to the total population of the Sabha area: Provided that in case no reservation of seats is possible as aforesaid due to small population of the Scheduled Castes and the population of Scheduled Castes of the Sabha area is at least five percent of the total population of the Sabha area, one seat shall be reserved for the Scheduled Castes in such a Gram Panchayat: Provided further that where there is no eligible candidate belonging to the Scheduled Castes to be elected as a member of the Gram Panchayat, no seat shall be reserved for Scheduled Castes: Provided further that in non-tribal areas where there is Scheduled Tribes population in a Gram Sabha, seats shall be reserved for such members of the Scheduled Tribes within the reservation provided for the members of the Scheduled Castes and the determination of seats to be reserved amongst the Scheduled Castes and Scheduled Tribes shall be in proportion to their population in that Gram Sabha. The State Government may, by general or special order, reserve such number of seats for persons belonging to Backward Classes in a Gram Panchayat, not exceeding the proportion to the total number of seats to be filled by direct election in the Gram Panchayat as the population of the persons belonging to Backward Classes in that Gram Sabha area bears to the total population of that area and may further reserve one-half of the total seats reserved under this sub-section for women belonging to Backward Classes. The meeting of the Gram Panchayat: The meeting of the Gram Panchayat shall be public and shall be held at least once a month at the office of the Gram Panchayat and at such time as the Pradhan may fix: Provided that the Pradhan, when required in writing by a majority of the members to call a meeting, shall do so within three days, failing which the said members shall, with the previous approval of the prescribed authority, be entitled to call a meeting after giving a notice of one week to the Pradhan and the other members. (2) Subject to the provisions of this Act and the rules framed thereunder one-half of the office bearers of the Gram Panchayat shall form a quorum. (3) The decisions of the Gram Panchayat shall be by majority and when the voting is equal, the Pradhan, in his absence, the Up-Pradhan, shall have an additional or casting vote. Functions of Gram Panchayat - The Gram Panchayat shall perform the Wonderland Himachal Pradesh the functions specified in Schedule-I. 970 Notwithstanding anything contained in this Act the State Government may, by general or special order, entrust to the Gram Panchayat preparation of plans and implementation of schemes for economic development and social justice 3[including those matters specified in Schedule-II and the Gram Panchayat shall perform such functions.] The State Government may, by general or special order, add to any of the functions of the Gram Panchayat or withdraw the functions and duties entrusted to such a Gram Panchayat, when the State Government undertakes the execution of any of the functions entrusted to the Gram Panchayat, the Gram Panchayat shall not be responsible for such functions so long as the State Government does not re-entrust such functions to the Gram Panchayat. The Government may, by notification and subject to such conditions as may be specified therein - (a) transfer to any Gram Panchayat the management and maintenance of a forest situated in the Gram Sabha area; (b) make over to the Gram Panchayat the management of waste lands, pasture lands or vacant lands belonging to the Government situated within the Gram Sabha area; (c) transfer to the Gram Panchayat the protection of any irrigation work and its execution and the regulation/distribution of water from any such work; (d) transfer to the Gram Panchayat any public property situated within the jurisdiction of the Gram Sabha; (e) entrust the Gram Panchayat with the collection of land revenue on behalf of the Government and the maintenance of such records as are connected therewith; and (f) entrust such other functions as may be prescribed: Provided that when any transfer of the management and maintenance of a forest is made under clause (a) or the transfer of any irrigation work is made under clause (c), the Government shall direct that any amount required for such management and maintenance or an adequate portion of the income from such forest or irrigation work be placed at the disposal of the Gram Panchayat. A Gram Panchayat shall have powers to do all acts necessary for or incidental to the carrying out of the functions entrusted, assigned or delegated to it and, in particular, and without prejudice to the foregoing powers, to exer-

cise all powers specified under this Act. Penalty for disobedience of a special or general order of the Panchayat. Any person who disobeys an order of the Gram Panchayat made under sections 12 and 13 shall be liable to a penalty which shall be imposed by the Gram Panchayat and may extend one thousand rupees; and if the breach is a continuing breach, with further penalty which may extend to

971 the Wonderland Himachal Pradesh ten rupees for every day after the first during which the breach continues: Provided that recurring penalty shall not exceed the sum of five thousand rupees. The penalty, if not paid shall be recovered as arrears of land revenue. Power to contract for the collection of taxes and other dues.- A Gram Panchayat may, notwithstanding any law to the contrary, in respect of any area within its jurisdiction, enter into contract with the Government or a local body to collect land revenue or any tax or dues payable to the Government or a local body on being allowed such collection charges as may be prescribed. A Gram Panchayat may also within its jurisdiction, enter into a contract with all or any of the land owners to collect rent on his or their behalf on being allowed by the landowner such collection charges as may be prescribed. Power to manage fairs and markets.- The Gram Panchayat may start, manage and regulate fairs and markets within the Sabha area in the prescribed manner. JUDICIAL PANCHAYAT FUNCTIONS AND POWERS OF GRAM

Bar for Panches to take part in certain cases.- (1) No Panch shall take part in any case, suit or proceedings to which he or she or his or her near relation, employed or employee, or partner in business is a party or in which any of them is personally interested. (2) If by reason of the number of Panches disqualified under sub-section (1) there remains no quorum the Gram Panchayat shall send the case or the suit to the Judicial Magistrate or the Sub-Judge or the Collector having jurisdiction, as the case may be, for disposal in accordance with law. Territorial jurisdiction.- (1) Notwithstanding anything contained in the Criminal Procedure Code, 1973 (2 of 1974), every case instituted under this Act shall be instituted before the Pradhan, or in his absence before Up-Pradhan, of the Gram Panchayat of the Sabha area in which the offence was committed. (2) Notwithstanding anything contained in the Civil Procedure Code, 1908 (5 of 1908), or in the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (8 of 1974), every suit instituted under this Act shall be instituted before the Pradhan, or in his absence before Up-Pradhan, of the Gram Panchayat of the Gram Sabha area in which the defendant, or any of the defendants, where they are more than one, ordinarily resides or carries on business at the time of the institution of the suit irrespective of the place where the cause of action arose. (3) Notwithstanding anything contained in the Himachal Pradesh Land Revenue Act, 1954 (6 of 1954), every proceeding specified under section 48 shall be transferred by the revenue court concerned to the Gram Panchayat within the local area in which the land concerned is situated and the Gram

2 the Wonderland Himachal Pradesh Panchayat shall decide such proceedings in the manner prescribed: 972 Provided that where land is included in the local area of more than one Gram Panchayats, the revenue court concerned shall transfer the proceedings to the Gram Panchayat within the area of which the greater part of the land is situated. Offences Cognizable by Gram Panchayat.- (1) Offences mentioned in Schedule-III or declared by the State Government to be cognizable by a Gram Panchayat, if committed within the jurisdiction of a Gram Panchayat, and abetment of and attempts to commit such offences shall be cognizable by such Gram Panchayat. (2) Application for maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974), shall be heard and decided by the Gram Panchayat. A Gram Panchayat may grant a maintenance allowance not exceeding five hundred rupees per month on such application without prejudice to any other law for the time being in force in this behalf. Penalties. A Gram Panchayat may impose a fine not exceeding one hundred rupees but shall not inflict a sentence of imprisonment either substantive or in default of payment of fine. No cognizance by Courts.- No Court shall take cognizance of any case suit or proceeding which is cognizable under this Act by a Gram Panchayat established for the area to which the case, suit or proceeding relates, unless an order has been passed under section 67. Transfer of criminal proceedings to the Gram Panchayat in certain cases. If, at any stage of the proceedings in a criminal case pending before a Magistrate, it appears that the case is triable by a Gram Panchayat, he shall at once transfer the case to that Gram Panchayat which shall try the case de-novo. Certain persons not to be tried by the Gram Panchayat.- No : Gram Panchayat shall take cognizance of any offence where the accused- (a) has been previously convicted of an offence punishable with imprisonment of either description for a term of three years or more; or (b) has been previously fined under section 379 of the Indian Penal Code (45 of 1860) by any Gram Panchayat or has been previously convicted and sentenced under the said section by a Court; or (c) has been bound over to be of good behaviour under section 109 or 110 of the Code of Criminal Procedure,

1973(2 of 1974); or (d) has been previously convicted of gambling; or (e) is Government servant and act complained of is the one done in his official capacity. Application for transfer of cases from one Gram Panchayat to another Gram Panchayat.- (1) Notwithstanding anything to the contrary contained in this chapter, if in any criminal case or civil suit or revenue proceeding before a Gram Panchayat any party intimates, at any stage before

973 the Wonderland Himachal Pradesh the pronouncement of the final order or decree, that it intends to put up an application under this section to the Judicial Magistrate or the Sub-Judge or the Collector, as the case may be, for transfer of the case, suit or proceeding, the Gram Panchayat shall direct the applicant to make such application within a reasonable time to be fixed by the Gram Panchayat, which shall not be less than fifteen days and adjourn the case, suit or proceeding for such period as will afford sufficient time for the application to be put up and an order to be obtained thereon: Provided that nothing herein contained shall require the gram Panchayat to adjourn the case, suit or proceeding upon a second or subsequent intimation from the same party. (2) The Judicial Magistrate or the Sub-Judge or the Collector, as the case may be, may upon such application, for reasons to be recorded in writing, transfer the case, suit or proceeding to another Gram Panchayat within his jurisdiction which shall try or hear the case, suit or proceeding, as the case may be.

Protection to Gram Panchayats.- The provisions of the Judicial Officers Protection Act, 1850 (18 of 1850) shall apply to the members of the Gram Panchayat, in respect of the acts done by it or them in judicial capacity.

Duty of police towards Gram Panchayats.- Every police officer shall give immediate information in the prescribed manner to the Gram Panchayat of an offence coming to his knowledge which has been committed within the jurisdiction of the Gram Panchayat and is triable by the Gram Panchayat and shall assist all Panches and servants of the Gram Panchayat in the exercise of their lawful authority.

PANCHAYAT SAMITI For each Block there shall be a Panchayat Samiti, having jurisdiction, over the entire block excluding such portions of the block as are included in a Municipality constituted under any law for the time being in force. Every Panchayat Samiti shall consist of- (a) the directly elected members from territorial constituencies as determined under the Act; (b) the Members of the House of the people and the Members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Panchayat Samiti area; (c) the Members of the Council of States, where they are registered as electors within the Panchayat Samiti area; (d) one-fifth of the Pradhans of Gram Panchayats in the Panchayat Samiti area, by rotation, for such period as the prescribed authority may determine, by lot: Provided that a Pradhan who was a member under this clause for one term shall not be eligible to become member for a second term during the remainder of his term of office as Pradhan; the Wonderland Himachal Pradesh 974 (e) the member of the Zila Parishad, representing the ward which comprises wholly or partly the Panchayat Samiti area. The Pradhans of Gram Panchayat and other members of the Panchayat Samiti whether or not chosen by direct election from territorial constituencies in the Panchayat Samiti shall have the right to vote in the meetings of the Panchayat Samiti except in the election and removal of the Chairman or Vice-Chairman only the elected members shall have the right to vote. The number of elected members of a Panchayat Samiti under clause (a) of sub-section (1) shall consist of persons elected from the territorial constituencies in the Samiti area as may be notified from time to time by the Government at the rate of one member for every three thousand five hundred population or part thereof: Provided that in a Panchayat Samiti area having a population of not exceeding fifty two thousand five hundred there shall be minimum of 15 elected members: Provided further that where the population of a Panchayat Samiti area is more than one lakh and forty thousand, it shall be divided into territorial constituencies in such manner that the total number of constituencies shall not exceed forty and the population of each constituency shall, as far as practicable, be the same in each constituency: Provided further that the Government may, irrespective of the population of the Panchayat Samiti area, declare, by a notification, that the provisions of this section shall apply to a Panchayat Samiti in a scheduled area, subject to such exceptions and changes as may be specified by it in such a notification. Seats shall be reserved in a Panchayat Samiti for the:- (a) Scheduled Castes; and (b) the Scheduled Tribes; and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat Samiti as the population of the Scheduled Castes in that Panchayat Samiti area or of the Scheduled Tribes in that Panchayat Samiti area bears to the total population of that area and such seats may be allotted, by rotation to different constituencies in a Panchayat Samiti in such manner, as may be prescribed. One-half of the total number of seats reserved under sub-section (4) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled

Tribes. One-half (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat Samiti shall be reserved for women. The State Government may, by general or special order, reserve such number of seats for persons belonging to Backward Classes in a Panchayat Samiti, not exceeding the proportion to the total number of seats to be filled by direct

975 the Wonderland Himachal Pradesh election in the Panchayat Samiti as the population of the persons belonging to Backward Classes in that Panchayat Samiti area bears to the total population of that area and may further reserve one-half of the total seats reserved under this sub-section for women belonging to Backward Classes. The seats reserved under sub-sections shall be allotted by rotation to different constituencies in the Samiti area in such manner as may be prescribed.

Election of Chairman and Vice-Chairman of Panchayat Samiti.- After the declaration of result of election of the elected members of the Panchayat Samiti in the prescribed manner, the Deputy Commissioner concerned or any Gazetted Officer appointed by him in this behalf shall as soon as possible but not later than one week of such declaration call under his Presidentship a meeting of all elected members for the purpose of oath, or the affirmation of allegiance under section 127. Immediately after oath or affirmation of allegiance under section 127 is administered or made, the elected members of a Panchayat Samiti shall, in the prescribed manner, elect one of its members to be the Chairman and another member to be the Vice-Chairman of the Panchayat Samiti: Provided that if the office of the Chairman or Vice-Chairman, as the case may be, is vacated or falls vacant during the tenure on account of death, resignation or no-confidence motion, a fresh election within a period of two months from the date of occurrence of vacancy shall be held from the same category, in the prescribed manner.

Meetings. A meeting of a Panchayat Samiti shall be either ordinary or special and, except as otherwise provided under this Act, the meetings of the Panchayat Samiti shall be convened by the Chairman and in his absence by the Vice-Chairman. A Panchayat Samiti shall ordinarily meet at its headquarters at least four times in each year for the transaction of its business and not more than three months shall be allowed to elapse between any two successive meetings. Notice of every meeting specifying the time and date thereof and the business to be transacted there at shall be sent to every member of the Panchayat Samiti and exhibited at the office of the Panchayat Samiti not less than ten clear days before an ordinary meeting and seven clear days before special meeting.

Functions of the Panchayat Samiti.- Subject to the provisions of this Act and the rules made thereunder, and subject to general or special orders, as may be issued by the State Government, from time to time, it shall be the duty of a Panchayat Samiti so far as the Panchayat Samiti funds allow to make reasonable provision in the Samiti area for the following matters:- (a) Integrated Rural Development, Agriculture, Social Forestry, Animal Husbandry and Fisheries, Health and Sanitation, Adult Education, Communication and Public Works, Co-operation, Cottage Industries, Welfare of Women, Youth and Children, Welfare of disabled and the destitutes and welfare programmes; 976 (b) provision of emergency relief in cases of distress caused by fires, floods, drought, earthquake, scarcity, locust, swarms, epidemics and other natural calamities; (c) arrangement in connection with local pilgrimage and festivals; (d) management of public ferries; (e) management of public markets, public melas and exhibitions; and (f) any other function with the approval of the State Government or Zila Parishad.

Entrustment of certain functions of State Government to a Panchayat Samiti.- The State Government may entrust, to a Panchayat Samiti functions in relation to any matter to which the executive authority of the State Government extends or in respect of functions which, have been entrusted to the State Government by the Central Government and the Panchayat Samiti shall be bound to perform such functions. It shall have necessary powers to perform such functions. Where functions are entrusted to a Panchayat Samiti under sub-section (1), the Panchayat Samiti shall in the discharge of those functions, act as an agent of the State Government. There shall be paid by the State Government to the Panchayat Samiti such sum as may be deemed necessary for discharging the functions entrusted to it under this section. The Panchayat Samiti shall, for the purposes of discharging the functions entrusted to it under this section, be under the general control of the State Government or any other authority appointed by it and shall comply with such directions as may from time to time, be given to it.

ZILA PARISHAD For each district there shall be a Zila Parishad, having jurisdiction, over the entire district excluding, such portions of the district as are included in a Municipality constituted under any law for the time being in force.

Constitution of Zila Parishad.- Every Zila Parishad shall consist of- (a) the directly elected members from territorial constituencies in the district as determined under this Act; (b) the Members of the House of People and the Members of the State Legislative Assembly representing a part or whole of

the district whose constituencies lie within the district; (c) the members of the Council of States, where they are registered as electors within the district; and (d) the Chairmen of all Panchayat Samitis in the district: Provided that when the total number of members under clauses (b), (c) and (d) exceed the total number of members under clause (a), only one-fifth of the members under clause (d) shall be selected by rotation for such period

977 the Wolderland Himachal Pradesh as the prescribed authority may determine, by lot. Subject to the condition that a Chairman who was a member under this clause for one term shall not be eligible to become member for a second term during the remainder of his term of office as the Chairman of Panchayat Samiti. The number of elected members of a Zila Parishad under clause (a) of sub-section (1) shall consist of persons elected from the territorial constituencies in the district as may be notified from time to time by the Government at the rate of one member for every 2[twenty five thousand] population or part thereof: Provided that in a district having population of not exceeding 3[two lakhs and fifty thousand], there shall be minimum of ten elected members in a Zila Parishad: Provided further that the Government may irrespective of the population of the district, declare, by a notification, that the provisions of this section shall apply to a Zila Parishad in a scheduled area, subject to such exceptions and modifications as may be specified by it in such a notification. All members of Zila Parishad, whether or not elected by direct election from territorial constituencies in the district shall have the right to vote in the meeting of the Zila Parishad except in the election or removal of the Chairman and Vice-Chairman only the elected members shall have the right to vote. Seats shall be reserved in the Zila Parishad- (a) for the Scheduled Castes; and (b) for the Scheduled Tribes; and number of seats so reserved shall bear, as nearly may be, the same proportion to the total number of seats to be filled by direct election in the Zila Parishad as the population of the Scheduled Castes in the district or of the Scheduled Tribes in the district bears to the total population of the district. One-half of the total number of seats reserved under sub-section (4) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes. One-half (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Zila Parishad shall be reserved for women. The State Government may, by general or special order, reserve such number of seats for persons belonging to Backward Classes in a Zila Parishad, not exceeding the proportion to the total number of seats to be filled by direct election in the Zila Parishad as the population of the persons belonging to Backward Classes in that district bears to the total population of that district and may further reserve one-half of the total seats reserved under this sub-section for women belonging to Backward Classes. The seats reserved under sub-sections (4), 5[(5), (5-A)] and (6) shall be allotted by rotation to different constituencies in the district in such manner as may be prescribed. the

Wonderland Himachal Pradesh 978 Election of the Chairman and Vice-Chairman. After the declaration of the results, the Deputy Commissioner shall, as soon as possible but not later than one week of such declaration, call under his presidentship a meeting of elected members of the Zila Parishad for the purposes of oath or affirmation or allegiance under section 127. Immediately after oath or affirmation of allegiance under section 127 is administered or made, the elected members of a Zila Parishad shall, in the prescribed manner, elect from amongst themselves one of its members to be the Chairman and another to be the Vice-Chairman of the Zila Parishad: Meetings of Zila Parishad. A meeting of a Zila Parishad shall be either ordinary or special and except as otherwise provided under this Act, the meetings of the Zila Parishad shall be convened by the Chairman and, in his absence by the Vice-Chairman. A Zila Parishad shall ordinarily meet at its headquarters at least four times in each year for the transaction of its business and not more than three months shall be allowed to elapse between any two successive meetings. Notice of every meeting specifying the time and date thereof and the business to be transacted thereat shall be sent to every member of the Zila Parishad and exhibited at the office of the Zila Parishad not less than ten clear days before an ordinary meeting and seven clear days before a special meeting: Provided that wherever it is considered expedient to do so in the public interest the requirement of the time limits specified in this sub-section may be relaxed with the approval of the prescribed authority. The Chairman, or, in his absence, the Vice-Chairman may whenever he thinks fit, and shall, on requisition made in writing by not less than one-third of the total members of the Zila Parishad, or if required by the Government or the Director, convene a special meeting within two weeks of the receipt of the written requisition. Any meeting of a Zila Parishad may, with the consent of the majority of the members present, be adjourned to any other date; but no business other than that left over at the adjourned meeting shall be transacted at the next following meeting: Functions of the Zila Parishad. Subject to the provisions of this Act and rules made

thereunder, it shall be duty of the Zila Parishad to- (i) control, co-ordinate and guide, the Panchayat Samiti and Gram Panchayat within the district; (ii) co-ordinate and consolidate the Panchayat Samiti plans; (iii) co-ordinate the demands for grants for special purpose received from the Panchayat Samiti and forward them to the State Government; (iv) secure the execution of the plans, projects schemes, or other works common to two or more Panchayat Samitis in the district; (v) advise the State Government in the developmental activities, social

979 the Wonderland Himachal Pradesh forestry, family welfare, welfare of the disabled, destitutes, women, youth and children and sports; (vi) exercise and perform such other powers and functions as the State Government may, confer on or entrust to it; (vii) distribute grants received from the Government for development works and to monitor the implementation of such works. The Zila Parishad of two or more adjacent districts may jointly undertake and execute any development schemes on such terms and conditions as may be mutually agreed upon. Entrustment of certain functions of State Government to a Zila Parishad. The State Government may entrust, to a Zila Parishad functions in relation to any matter to which the executive authority of the State Government extends or in respect of functions which have been entrusted to the State Government by the Central Government and the Zila Parishad shall be bound to perform such functions. It shall have necessary powers to perform such functions. Where functions are entrusted to a Zila Parishad under sub-section (1), the Zila Parishad shall in the discharge of those functions, act as an agent of the State Government. There shall be paid by the State Government to the Zila Parishad such sum as may be deemed necessary for discharging the functions entrusted to it under this section. The Zila Parishad shall, for the purposes of discharging the functions entrusted to it under this section, be under the general control of the state Government and shall comply with such directions as may from time to time, be given to it.

Elections and establishment of three tier PR System: As per the requirements of the provisions of the Constitution and the State Panchayati Raj Act, 1994, the three tier Panchayati Raj system was established in the State during the year 1995-96. First general elections of PR bodies of this State, except in Development Block Lahaul and Development Block Pangti, were held during December, 1995 and the Panchayats started functioning w.e.f. 23rd January, 1996 and the 5 years term expired on 22nd January, 2001. In Development Block Lahaul and Development Block Pangti the first general elections were held during May, 1996. Second general elections of PR bodies of this State, except in Development Block Lahaul and Development Block Pangti, were held during December, 2000 and the Panchayats started functioning w.e.f. 23rd January, 2001 and the 5 years term expired on 22nd January, 2006. In Development Block Lahaul and Development Block Pangti the second general elections were held during May, 2001. Third general elections barring 48 Gram Panchayats i.e. 28-Gram the Wonderland Himachal Pradesh 980 Panchayats of Sub-Divisions Lahaul of District Lahaul-Spiti and 16 Gram Panchayats of Sub-Division Pangti of District Chamba and 4 Gram Panchayats of District Kullu, two Panchayat Samitis namely Lahaul and Pangti and Zila Parishad Lahaul Spiti were held during December, 2005 and the elected office bearers started functioning w.e.f. 23rd January, 2006. The elections of remaining 48 Gram Panchayats, 2 Panchayat Samiti and 1 Zila Parishad were also held during June, 2006. Fourth general elections barring 48 Gram Panchayats i.e. 28 Gram Panchayats of Sub-Divisions Lahaul of District Lahaul-Spiti and 16 Gram Panchayats of Sub-Division Pangti of District Chamba and 4 Gram Panchayats of District Kullu, two Panchayat Samitis namely Lahaul and Pangti and Zila Parishad Lahaul Spiti were held on 28th and 30th December, 2010 and 1st January, 2011. The elected office bearers started functioning w.e.f. 23rd January, 2011. The elections of remaining 44 Gram Panchayats, 2 Panchayat Samiti and 1 Zila Parishad held during June, 2011, whereas elections of remaining 4 Gram Panchayats of Kullu District were held during February, 2012.

Cantonment Area: Himachal Pradesh has 7 cantt. areas, governed as per the Cantt. Board Area Act 2006, which replaced earlier Act of 1924, passed during British period. The oldest cantonment is Subathu, which came into existence in 1815. The other six are Jatog (1843), Kasauli (1850), Dalhousie (1857), Dagshai (1867), Yol (1941) and Dharamshala cantt. (1942).

Municipal Bodies: At the town level there are local bodies known as Municipal Committees and Corporation to look after the needs of the people of towns. Municipal Committees are provided with such functions as, supply of pure and wholesome water, maintenance of public hospitals, setting up of primary schools, cleaning public streets, places and sewers, maintenance of public streets, regulation of offensive and dangerous trade; naming streets and numbering houses and many other functions given to it from time to time. In Himachal Pradesh, there are 21 Municipal Committee 29 Notified Area committee and one Municipal Corporation. Political executive of municipality is known as Municipal Chairman and official executive Municipal Commissioner, who is appointed by the state government. The members of municipal committee are elected on the basis of

adult suffrage. These committees are governed by the Municipal Acts of the state. Total number of members varies from committee to committee. Reservation of seats are provided for Scheduled Castes and Tribes. Shimla Municipal Corporation: The capital town (Shimla) of Himachal, has Municipal Corporation. The Corporation comprises of members called COUNCILLORS. These Councillors are elected on adult suffrage. SCs and STs have seat reservations. The History of Shimla Municipal Corporation goes back to 1851, when under Act 26 of 1850, the first municipal government was formed here. The first election to Municipal government were held in 1855, before this its members were nominated by the British government.

Shimla Municipality was first in the then Punjab province and one of the oldest in the country. On 31st July 1871 Shimla municipality was designated category -1 status. Since then a number of provisions were amended in its constitution. In Shimla municipality, the Punjab state municipality act remained in force from 1911 to 1966, when it was transferred to Himachal Pradesh along with other hilly areas. In 1968, Himachal Pradesh municipality act was enacted, which had the provision of president and Vice president elected by members amongst themselves. The tenure was fixed three years. Municipality had right to appoint its own medical officers, Engineer etc. to help in its functioning. Since 1968 to 2012, a sea change has taken place in the municipality act and its functioning. The term of corporation in Shimla is five years.

The political executive is known Mayor, who is annually elected from among the members of the Corporation. Official Executive is Municipal Commissioner, who is appointed by state government. Owing to abolition of Octroi from April 1982, the government has been giving grants-in-aid to urban local bodies, which have been deprived of their major source of income of sustaining their normal activities and to ensure normal functioning of local _ bodies. In many other cases grant-in-aid is provided by both centre and state government to these local bodies. In Himachal Pradesh urban bodies are playing their role in somewhat good manner and interest. In 1992, Union government made 73rd amendment to the constitution, providing uniform administrative and functional provision of the Panchayats all over the country. This amendment is based on the recommendations of L.44. Singhvi Committee. In 2012, for the first time direct election were held for the post of Mayor and Dy. Mayor. Out of 25 wards, 13 were reserved for women. The total electorate in 2012 in Shimla municipal corporation were 81040. The post of Mayor Dy.

Mayor were won by CPI, Mr. Sanjay Chauhan and Mr. Tikendar Panwar respectively. Out of 25 seats, BJP won 12, Congress 10 and CPI 03. Two person were nominated by the government making it 27 in all.

To increase the revenue of Shimla municipal corporation, Green tax has 1 a 1 v 4 been levied on the vehicles bearing other state number plates from 1 September, 2012.

The Panchayati Raj Training Institute, Mashobra: The

Panchayati Raj Training Institute, Mashobra was established as a Government Institute, under the Panchayati Raj Department in the year 1978, by the Government of Himachal Pradesh. The Himachal Pradesh Government by the notification dated 31st July, 1978 took over the Institute under its control and also shifted the campus to a place called Mashobra in District Shimla. Before 1978 it was run as an autonomous body at a place called Salogra in district Solan of Himachal Pradesh.

The Present Office Campus of Himachal Pradesh Panchayati Raj Training Institute Mashobra, is located at a place called 'Craigneno', 3 Kilometers from the Mashobra Block Office and 18 Kilometers from the General Main Bus Stand of Shimla City. Before the year 1999 the Institute was being run in a rented private building in the main MARKET of Mashobra. The building in which the Institute is functioning at present, was constructed during the year 1994 to 1999. The Institute was shifted to this new building in December, 1999,

The Panchayati Raj Training Institute, Mashobra is also recognised as an Extension Training Centre (E.T.C) under the Ministry of Rural Development, Govt. of India. Being an E.T.C., it has been receiving an annual recurring grant of Rupees Twenty Lacs and also Non recurring grants under different heads from the Ministry of Rural Development, Govt. of India.

The state of Himachal is divided into 12 Districts, 77 Blocks (75 Panchayat Samitis) and 3243 Gram Panchayats at present. The Panchayati Raj training Institute Mashobra has 4 districts full (i.e. Shimla, Solan, Sirmour and Kinnaur) and one Block (i.e Kaza) of district Lahaul-Spiti under its jurisdiction. Institute gives direct training to the elected representatives of Panchayati Raj Institutions e.g. Pradhans/Up-Pradhans of village(Gram) Panchayats, Member of intermediate Panchayats (Panchayat Samitis) and District Panchayats (Zila

Parishads)etc. The Institute also imparts training to the officials serving PRIs, and of Panchayati Raj and Rural Development Department, like, Panchayat Inspectors, Auditors/Panchayat Sahayaks/Panchayat Secretaries etc.